
United States
Circuit Court of Appeals
For the Ninth Circuit.

ALASKA SALMON COMPANY, a Corporation,
Plaintiff in Error and Appellant,
vs.
THE TERRITORY OF ALASKA,
Defendant in Error and Appellee.

Transcript of Record.

Upon Writ of Error to and Upon Appeal from the United States
District Court of the District of Alaska,
Division No. 1.

Filed

JAN 20 1916

F. D. Monckton,

United States
Circuit Court of Appeals
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ALASKA SALMON COMPANY, a Corporation,
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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Names and Addresses of Attorneys.

Z. R. CHENEY, Juneau, Alaska,
Attorney for Plaintiff in Error.

J. H. COBB, Juneau, Alaska,
Attorney for Defendant in Error. [1*]

*In the District Court for the Territory of Alaska,
Division Number One. at Juneau.*

THE TERRITORY OF ALASKA,
Plaintiff,

vs.

ALASKA SALMON COMPANY,
Defendant.

**Defendant's Request for Conclusions of Law and
Judgment.**

Upon the agreed statement of facts filed herein by the parties to this suit, which said statement the Court adopts its findings of fact, the Court doth conclude as a matter of law:

Conclusion No. One.

That sections six and nine of the act of April 29, 1915, under which this suit is prosecuted, are void and invalid for the reasons:

(A) That the sections of said act above mentioned alter, modify and repeal the act of June 26, 1906, which said act of June 26, 1906, is set forth in paragraph VI of the agreed statement of facts;

(B) Because under the act of August 24, 1912, which said act is set forth in paragraph IV of the

*Page-number appearing at foot of page of original certified Record.

agreed statement of facts, the legislative assembly in the Territory of Alaska is prohibited from passing any laws relating to fish or fisheries in the Territory of Alaska;

(C) Because no assessment whatsoever was made upon the property of defendant, taxed under the act of April 29, 1915, prior [1a] to the levying of the tax.

Refused. R. W. J.

Conclusion No. Two.

The defendant company is not liable for any license taxes for the years 1913-1914, for the reason that the act of May 1, 1913, designated as House Bill No. 96, did not provide for any civil liability.

Refused. R. W. J.

Conclusion No. Three.

That the defendant, Alaska Salmon Company, having complied with all the conditions and paid the license fees imposed by the said acts of Congress, is not required to apply for a license and pay the license fees and taxes imposed by the act of the legislature of Alaska, approved May 1, 1913.

Refused. R. W. J.

Conclusion No. Four.

That the defendant, Alaska Salmon Company, having complied with all the conditions and paid the license fees imposed by the said acts of Congress, is not required to apply for a license and pay the license fees and taxes imposed by the act of the Alaska legislature, approved April 29, 1915.

Refused. R. W. J.

Conclusion No. Five.

That the owners of private salmon hatcheries in Alaska, who are also engaged in the business of canning salmon in Alaska, are by virtue of certificates issued to them by the Secretary of Commerce and Labor for salmon fry liberated from their said hatcheries, entitled, by virtue of such certificates, to have the same applied *pro tanto*, in payment of all license fees and [2] charges, not only imposed by the said acts of Congress, but also by said acts of the legislature of Alaska.

Refused. R. W. J.

Conclusion No. Six.

Upon the agreed statement of facts, the Court doth find that the plaintiff is not entitled to any relief in this action, and that defendant is entitled to its costs and disbursements herein expended.

Refused. R. W. J.

ROBERT W. JENNINGS,

Judge.

Filed in the District Court, District of Alaska,
First Division. Dec. 15, 1915. J. W. Bell, Clerk.
By —————, Deputy. [3]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

No. 1407—A.

TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA SALMON COMPANY,

Defendant.

Judgment.

This cause came on regularly to be heard upon the agreed statement of facts filed herein and was submitted to the Court under the provisions of chapter 28 of the Code of Civil Procedure of the district of Alaska, Mr. J. H. Cobb appearing for the plaintiff, and Mr. Z. R. Cheney for defendant. And the Court having heard said agreed statement of facts and fully considered the same, the Court concludes as a matter of law:

I.

That compliance with all the conditions and the payment of the license fees imposed by the acts of Congress set forth in the agreed statement, does not relieve the defendant from the payment of the license taxes imposed by the act of the Alaska legislature approved May 1st, 1913, but that the defendant was obliged to apply for a license and pay the license fees and taxes so imposed.

II.

That the defendant having complied with all the conditions and paid the license fees imposed by the acts of Congress in said agreed statement set forth, is obliged to apply for a license and pay the license fees and taxes imposed by the act of the legislature of Alaska [4] known as House Bill No. 109 approved April 29th, 1915.

IT IS THEREFORE CONSIDERED BY THE COURT, and so ordered and adjudged that the plaintiff, the Territory of Alaska do have and recover of and from the defendant the Alaska Salmon Company for the taxes for the year 1915, the amount set

forth in the tenth paragraph of said agreed statement, to wit: Twelve Hundred and Ninety and 03/100 Dollars (\$1,290.03) with interest thereon at the rate of eight per cent per annum from and after January 15th, 1916.

IT IS FURTHER CONSIDERED BY THE COURT and so ordered and adjudged that the plaintiff, the Territory of Alaska, do have and recover of and from the defendant, the Alaska Salmon Company, a corporation, for taxes for the years 1913 and 1914, the sum of Four Thousand Six Hundred and Forty-three and 60/100 Dollars (\$4,643.60) being the amount set forth in paragraph four of said statement, as the second cause of action, together with interest thereon from the date hereof at the rate of eight per cent per annum.

AND IT IS FURTHER CONSIDERED BY THE COURT and so ordered and adjudged that the plaintiff do have and recover of the defendant its costs herein to be taxed by the clerk, and execution may issue for all said amounts so recovered.

Done in open court this the 22d day of December, 1915.

ROBERT W. JENNINGS,
Judge.

Filed in the District Court, District of Alaska,
First Division, Dec. 14, 1915. J. W. Bell, Clerk.
By _____, Deputy. [5]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1074—A.

THE TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA SALMON COMPANY,

Defendant.

Assignment of Errors.

Comes now the Alaska Salmon Company, defendant above named and plaintiff in error, by its attorney, Z. R. Cheney, and assigns the following errors committed by the Court in adopting its conclusions of law, and in the rendition of the judgment in this cause, upon which errors it will rely in the Appellate Court:

Assignment of Error No. One.

The Court erred in refusing to adopt defendant's requested conclusion of law number one, reading as follows:

That sections six and nine of the act of April 29, 1915, under which this suit is prosecuted, are void and invalid for the reasons:

(A) That the sections of said act above mentioned alter, modify, and repeal the act of June 26, 1906, which said act of June 26, 1906, is set forth in paragraph VI of the agreed statement of facts;

(B) Because under the act of August 24, 1912, which said act is set forth in paragraph IV of the agreed statement of facts, the legislative assembly in

the territory of Alaska is prohibited from passing any laws relating to fish or fisheries in the Territory of Alaska; [6]

(C) Because no assessment whatsoever was made upon the property of defendant, taxed under the act of April 29, 1915, prior to the levying of the tax.

Assignment of Error No. Two.

The Court erred in refusing to adopt defendant's requested conclusion of law number two, reading as follows:

The defendant company is not liable for any license taxes for the years 1913-1914, for the reason that the act of May 1, 1913, designated as House Bill No. 96, did not provide for any civil liability.

Assignment of Error No. Three.

The Court erred in refusing to adopt defendant's requested conclusion of law number three, reading as follows:

That the defendant, Alaska Salmon Company, having complied with all the conditions and paid the license fees imposed by the said acts of Congress, is not required to apply for a license and pay the license fees and taxes imposed by the act of the legislature of Alaska, approved May 1, 1913.

Assignment of Error No. Four.

The Court erred in refusing to adopt defendant's requested conclusion of law number four, reading as follows:

That the defendant, Alaska Salmon Company, having complied with all the conditions and paid the license fees imposed by the said acts of Congress, is not required to apply for a license and pay the license

fees and taxes imposed by the act of the Alaska legislature, approved April 29, 1915. [7]

Assignment of Error No. Five.

The Court erred in refusing to adopt defendant's requested conclusion of law number five, reading as follows:

That the owners of private salmon hatcheries in Alaska, who are also engaged in the business of canning salmon in Alaska, are by virtue of certificates issued to them by the Secretary of Commerce and Labor for salmon fry liberated from their said hatcheries, entitled, by virtue of such certificates, to have the same applied *pro tanto*, in payment of all license fees and charges, not only imposed by the said acts of Congress, but also by said acts of the legislature of Alaska.

Assignment of Error No. Six.

The Court erred in refusing to adopt defendant's requested conclusion of law number six, reading as follows:

Upon the agreed statement of facts, the Court doth find that the plaintiff is not entitled to any relief in this action, and that defendant is entitled to its costs and disbursements herein expended.

Assignment of Error No. Seven.

The Court erred in adopting conclusion of law number one, reading as follows:

That compliance with all the conditions and the payment of the license fees imposed by the acts of Congress set forth in the agreed statement, does not relieve the defendant from the payment of the license taxes imposed by the act of the Alaska legislature

approved May 1st, 1913, but that the defendant was obliged to apply for a license and pay the license fees and taxes so imposed. [8]

Assignment of Error No. Eight.

The Court erred in adopting conclusion of law number Two, reading as follows:

That the defendant having complied with all the conditions and paid the license fees imposed by the acts of Congress in said agreed statement set forth, is obliged to apply for a license and pay the license fees and taxes imposed by the act of the legislature of Alaska known as House Bill No. 109 approved April 29th, 1915.

Assignment of Error No. Nine.

The Court erred in rendering and entering judgment for the plaintiff, reading as follows:

IT IS THEREFORE CONSIDERED BY THE COURT, and so ordered and adjudged that the plaintiff, the Territory of Alaska do have and recover of and from the defendant the Alaska Salmon Company for the taxes for the year 1915 the amount set forth in the tenth paragraph of said agreed statement, to wit: Twelve Hundred and Ninety and 03/100 Dollars (\$1,290.03) with interest thereon at the rate of eight per cent per annum from and after January 15th, 1915.

IT IS FURTHER CONSIDERED BY THE COURT and so ordered and adjudged that the plaintiff, the Territory of Alaska, do have and recover of and from the defendant, the Alaska Salmon Company, a corporation, for taxes for the years 1913 and 1914, the sum of Four Thousand Six Hundred and

Forty-three and 60/100 Dollars (\$4,643.60) being the amount set forth in paragraph four of said statement, as the second cause of action, together with interest thereon from the date hereof at the rate of eight per cent per annum. [9]

AND IT IS FURTHER CONSIDERED BY THE COURT and so ordered and adjudged that the plaintiff do have and recover of the defendant it's costs herein to be taxed by the clerk, and execution may issue for all said amounts so recovered.

Done in open court this the 22 day of December, 1915.

ROBERT W. JENNINGS,
Judge.

And for the said errors and others manifest of record herein, defendant and plaintiff in error prays that the said judgment be reversed and judgment be given for defendant and plaintiff in error, and for such other orders as to the Court may seem meet and proper in the premises.

Z. R. CHENEY,
Attorney for Alaska Salmon Company, Defendant
and Plaintiff in Error.

Filed in the District Court, District of Alaska,
First Division. Dec. 23, 1915. J. W. Bell, Clerk.
By _____, Deputy. [10]

COPY.

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1407—A.

THE TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA SALMON COMPANY,

Defendant.

Petition for Appeal.

The Alaska Salmon Company, defendant and appellant in the above-entitled cause, conceiving itself aggrieved by the judgment and decree made and entered on the 22d day of December, 1915, in the above-entitled cause, does hereby appeal from said judgment and decree to the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California, and prays this its appeal may be allowed, and that a transcript of the record, proceedings and papers upon which said judgment and decree were made and based, duly authenticated, may be sent to the said United States Circuit Court of Appeals for the Ninth Circuit, to the end that said judgment and decree may be reversed or modified, and speedy justice done in the premises.

Z. R. CHENEY,

Attorney for Alaska Salmon Company, Defendant
and Appellant.

Filed in the District Court, District of Alaska,

First Division, Dec. 23, 1915. J. W. Bell, Clerk.

By _____, Deputy. [11]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1407—A.

THE TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA SALMON COMPANY,

Defendant.

Order Allowing Appeal and Fixing Amount of Bond.

This matter coming on to be heard in open court this 23 day of December, 1915, upon the petition of the defendant and appellant for an order allowing an appeal in the above-entitled cause, defendant and appellant being represented by its attorney, Z. R. Cheney, and it appearing to the Court that the petitioner has made and duly filed its assignment of errors herein, and said petition being in due form, it is ordered that the appeal herein be and the same is allowed as prayed for.

It is further ordered that the defendant and appellant file a bond on appeal in the sum of Six Thousand Dollars (\$6,000.00), such bond, when taken and approved, to operate as a supersedeas from and after the date of its filing.

Done in open court this 23d day of December, 1915.

ROBERT W. JENNINGS,

Judge.

Filed in the District Court, District of Alaska,
First Division Dec. 23, 1915. J. W. Bell, Clerk. By
———— Deputy. [12]

COPY.

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1407—A.

THE TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA SALMON COMPANY,

Defendant.

Petition for Writ of Error.

The Alaska Salmon Company, defendant in the above-entitled cause, feeling itself aggrieved by the conclusions of law adopted by the Court and by the judgment entered against the defendant on the 22d day of December, 1915, in the above-entitled cause, comes now by its attorney, Z. R. Cheney, and petitions said Court for an order allowing the defendant to prosecute a writ of error to the Honorable United States Circuit Court of Appeals for the Ninth Circuit, under and according to the laws of the United States in that behalf made and provided, and also that an order be made fixing the amount of security which the defendant shall give and furnish upon said writ of error, and that upon the giving of such security, all further proceedings in this court be suspended and stayed until the determination of

said writ of error by the United States Circuit Court of Appeals for the Ninth Circuit.

And your petitioner will ever pray.

Z. R. CHENEY,
Attorney for defendant.

Filed in the District Court, District of Adaska,
First Division, Dec. 23, 1915. J. W. Bell, Clerk.
By _____, Deputy. [13]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1407—A.

THE TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA SALMON COMPANY,

Defendant.

**Order Allowing Writ of Error, and Fixing Amount
of Supersedeas Bond.**

At a stated time, to wit, on the 23 day of December, 1915, at a regular session of the District Court, held in the courtroom, in the city of Juneau, in said Territory, on said day. Present: The Honorable ROBERT W. JENNINGS, District Judge.

Upon motion of Z. R. Cheney, attorney for defendant, based upon petition for writ of error and an assignment of errors heretofore duly filed herein, it is ordered that a writ of error be and hereby is allowed to have reviewed in the United States Circuit Court of Appeals for the Ninth Circuit, the judg-

ment heretofore entered herein and herein filed on the 22d day of December, 1915.

It is further ordered that the defendant file a bond in the sum of Six Thousand Dollars (\$6,000.00) such bond, when taken and approved by this Court and filed herein, to operate as a supersedeas from and after the date of such filing.

Done in open court this 23d day of December, 1915.

ROBERT W. JENNINGS,
Judge.

Filed in the District Court, District of Alaska, First Division, Dec. 23, 1915. J. W. Bell, Clerk.
By _____, Deputy. [14]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1407—A.

THE TERRITORY OF ALASKA,
Plaintiff,
vs.
ALASKA SALMON COMPANY,
Defendant.

Writ of Error.

United States of America,—ss.

The President of the United States of America to the Honorable Judge of the District Court for the Territory of Alaska, Division Number One:
Greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in

the District Court before you between the Territory of Alaska, plaintiff, vs. Alaska Salmon Company, defendant, wherein was drawn in question the validity of certain statutes of the Territory of Alaska, being chapter 52 of the Session Laws of Alaska of 1913, approved May 1, 1913, and chapter 76 of the Session Laws of Alaska of 1915, approved April 29, 1915, and wherein the decision was in favor of the validity of said acts, a manifest error hath happened to the great prejudice and damage of the said defendant, Alaska Salmon Company, as is said and appears by the petition herein;

Now, Therefore, we being willing that error, if any hath been, should be duly corrected and full and speedy justice be done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Justices of the United States Circuit Court of Appeals for the Ninth Circuit, in the city of San Francisco, in the State of California, together with this writ, [15] so as to have the same at the said place in said circuit on or before thirty days, from the date hereof, that the record and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done therein to correct those errors, which of right and according to the laws and customs of the United States should be done.

WITNESS, the Honorable EDWARD DOUGLASS WHITE, Chief Justice of the Supreme Court

of the United States, this 23 day of December, 1915.

I attest my hand and the seal of the District Court for Alaska, Division Number One, at the Clerk's office at Juneau, Alaska, on the day and year last above written.

[Seal]

J. W. BELL,

Clerk of the District Court for the Territory of
Alaska.

By _____,

Deputy.

Allowed this 23 day of December, 1915.

ROBERT W. JENNINGS,

Judge.

Filed in the District Court, District of Alaska,
First Division, Dec. 23, 1915. J. W. Bell, Clerk.
By _____, Deputy. [16]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1407—A.

THE TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA SALMON COMPANY,

Defendant.

Citation on Writ of Error.

United States of America,—ss.

The President of the United States to the Territory
of Alaska, Plaintiff, and to J. H. Cobb, its Chief
Counsel, Greeting:

You are hereby cited and admonished to be and ap-

pear at the United States Circuit Court of Appeals for the Ninth Circuit to be held at the city of San Francisco, in the State of California, within thirty days from the date of this writ, pursuant to a writ of error filed in the clerk's office of the District Court for Alaska, Division Number One, wherein the Alaska Salmon Company is plaintiff, and you are the defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should be corrected and speedy justice should not be done to the parties in that behalf.

WITNESS the Honorable EDWARD DOUGLASS WHITE, Chief Justice of the Supreme Court of the United States of America, this 23d day of December, 1915, and of the independence of the United States the one hundred and thirty-ninth.

ROBERT W. JENNINGS,

Judge.

Copy received and service accepted, this 23d day of December, 1915.

J. H. COBB,

Chief Counsel for the Territory of Alaska.

Filed in the District Court, District of Alaska, First Division, Dec. 23, 1915. J. W. Bell, Clerk.
By L. E. Spray, Deputy. [17]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

THE TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA SALMON COMPANY,

Defendant.

**Stipulation [That Defendant may File Supersedeas
Bond on Appeal Within 40 Days from Dec. 22,
1915, etc.].**

It is hereby stipulated and agreed between J. H. Cobb, Chief Counsel for the Territory of Alaska, plaintiff, and Z. R. Cheney, attorney for defendant, that the defendant may file in the United States Circuit Court of Appeals for the Ninth Circuit at San Francisco, California, at any time, within forty days from this date, a supersedeas bond on appeal, in the sum of Six Thousand Dollars (\$6,000) in pursuance of the order of Robert W. Jennings, Judge of the District Court for the Territory of Alaska, Division Number One, which said order was made and filed in said District Court on the 23d day of December, 1915; that in the meantime and until the filing of such bond, all proceedings on the part of the plaintiff under the judgment made and entered in this cause on the 22d day of December, 1915, be stayed.

J. H. COBB,

Attorney for Plaintiff.

Z. R. CHENEY,

Attorney for Defendant.

Filed in the District Court, District of Alaska,
First Division, Dec. 23, 1915. J. W. Bell, Clerk.
By _____, Deputy. [18]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1407—A.

THE TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA SALMON COMPANY,

Defendant.

Defendant's Bill of Exceptions.

BE IT REMEMBERED, that the above-entitled cause came on for trial, before Honorable Robert W. Jennings, Judge of the above-entitled court, on December 14, 1915, plaintiff being represented by Mr. J. H. Cobb, Chief Counsel for the Territory of Alaska, and defendant being represented by its attorney, Mr. Z. R. Cheney. The cause was submitted upon an agreed statement of facts filed by the parties pursuant to the provisions of chapter 28 of the Code of Civil Procedure for the District of Alaska, which statement of facts is in words and figures as follows, to wit: [19]

*In the United States District Court, Territory of
Alaska, First Division.*

No. 1407—A.

THE TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA SALMON COMPANY,

Defendant.

Agreed Statement of Facts and Stipulation to Submit a Controversy Without Action.

Whereas a question in controversy has arisen between the Territory of Alaska, plaintiff, and the Alaska Salmon Company, defendant, as to the necessity of the defendant making application for, and obtaining, a license to prosecute the business of operating a salmon cannery in the Territory of Alaska, for maintaining fish-traps and using gill-nets, and paying for said licenses the amounts hereinafter stated, which question in controversy might become the subject of an action or actions in the courts of the District of Alaska, and the parties hereto have agreed to submit the same to the determination of the Court without action, under the provisions of chapter 28 of the Code of Civil Procedure of the District of Alaska, and have agreed to the following statement of facts upon which the said controversy shall be submitted to this court. [20]

I.

That the defendant is, and ever since the 14th day of November, 1900, has been, a corporation duly incorporated, organized and existing under and by

virtue of the laws of the State of California, and, with the exception of the year 1909, has ever since the year 1901 been engaged in the business of annually operating a salmon cannery situate on the Nushagak River, in the District of Alaska, and manufacturing canned salmon thereat.

II.

That the said defendant, during the year 1915, also packed at its said cannery in Alaska, the following cases of salmon, to wit:

Of King and Red salmon.....27,669 Cases

Of Medium Red salmon..... 616 Cases

Of all other salmon..... 3,920 Cases

That the amount in controversy herein exceeds the sum of Five Hundred (500) Dollars in United States Gold Coin.

III.

That the said defendant, during the year 1915, also maintained and operated at its said cannery at Alaska gill-nets, aggregating 13,175 fathoms in length.

IV.

That on the 24th day of August, 1912, the Congress of the United States duly enacted a law for the creation of a legislative assembly for the Territory of Alaska, which law is hereinafter referred to as the Organic Act, and is as follows, to wit: [21]

“An Act to Create a Legislative Assembly in the Territory of Alaska, to Confer Legislative Power Thereon, and for Other Purposes.

(Act of August 24, 1912, ch. 387.)

Sec. 1. Alaska Territory organized.—That the

territory ceded to the United States by Russia by the treaty of March thirtieth, eighteen hundred and sixty-seven, and known as Alaska, shall be and constitute the Territory of Alaska under the laws of the United States, the government of which shall be organized and administered as provided by said laws.

Sec. 2. Capital at Juneau.—That the capital of the Territory of Alaska shall be at the city of Juneau, Alaska, and the seat of government shall be maintained there.

Sec. 3. Constitution and laws of United States extended.—That the Constitution of the United States, and all the laws thereof which are not locally inapplicable, shall have the same force and effect within the said Territory as elsewhere in the United States; that all the laws of the United States heretofore passed establishing the executive and judicial departments in Alaska shall continue in full force and effect until amended or repealed by Act of Congress; that except as herein provided all laws now in force in Alaska shall continue in full force and effect until altered, amended, or repealed by Congress or by the Legislature; Provided, That the authority herein granted to the legislature to alter, amend, modify, and repeal laws in force in Alaska shall not extend to the customs, internal-revenue, postal, or other general laws of the United States or to the game, fish, and fur-seal laws and laws relating to fur-bearing animals of the United States applicable to Alaska, or to the laws of the United States providing for taxes on business and trade, or to the Act entitled 'An Act to provide for the construction and mainten-

ance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the District of Alaska, and for other purposes,' approved January twenty-seventh, nineteen hundred and five, and the several Acts amendatory thereof: Provided further, that this provision shall not operate to prevent the legislature from imposing other and additional taxes and licenses. And the legislature shall pass no law depriving the judges and officers of the District Court of Alaska of any authority, jurisdiction, or function exercised by like judges or officers of District Courts of the United States.

Sec. 4. The legislature.—That the legislative power and authority of said Territory shall be vested in a legislature, which shall consist of a Senate and a House of Representatives. The Senate shall consist of eight members, two from each of the four judicial divisions into which Alaska is now divided by Act of Congress; each of whom shall have at the time of his election the qualifications of an elector in Alaska, and shall have been a resident and an inhabitant in the division from which he is elected for at least two years prior to the date of his election. The term of office of each member of the Senate shall be four years: Provided, That immediately after they shall be assembled in consequence of the first election [22] they shall, by lot or drawing, be divided in each division into two classes; the seats of the members of the first class shall be vacated at the end of two years and the seats of the members of the second class shall be vacated at the end of four years, so that one member of the Senate shall, after the first elec-

tion, be elected biennially at the regular election from each division. The House of Representatives shall consist of sixteen members, four from each of the four judicial divisions into which Alaska is now divided by Act of Congress. The term of office of each representative shall be for two years and each representative shall possess the same qualifications as are prescribed for members of the Senate and the persons receiving the highest number of legal votes in each judicial division cast in said election for senator or representative shall be deemed and declared elected to such office: Provided, That in the event of a tie vote the candidates thus affected shall settle the question by lot. In case of a vacancy in either branch of the legislature the governor shall order an election to fill such vacancy, giving due and proper notice thereof. That each member of the legislature shall be paid by the United States the sum of fifteen dollars per day for each day's attendance while the legislature is in session, and mileage, in addition, at the rate of fifteen cents per mile for each mile from his home to the capital and return by the nearest traveled route.

Sec. 5. Election of members of the legislature.— That the first election for members of the Legislature of Alaska shall be held on the Tuesday next after the first Monday in November, nineteen hundred and twelve, and all subsequent elections for the election of such members shall be held on the Tuesday next after the first Monday in November biennially thereafter; that the qualifications of electors, the regulations governing the creation of voting precincts, the

appointment and qualifications of election officers, the supervision of elections, the giving of notices thereof, the forms of ballots, the register of votes, the challenging of voters, and the returns and the canvass of the returns of the result of all such elections for members of the legislature shall be the same as those prescribed in the Act of Congress entitled 'An Act providing for the election of a Delegate to the House of Representatives from the Territory of Alaska,' approved May seventh, nineteen hundred and six, and all the provisions of said Act which are applicable are extended to said elections for members of the legislature, and shall govern the same, and the canvassing board created by said Act shall canvass the returns of such elections and issue certificates of election to each member elected to the said legislature; and all the penal provisions contained in section fifteen of the said Act shall apply to elections for members of the legislature as fully as they now apply to elections for Delegate from Alaska to the House of Representatives.

Sec. 6. Convening and sessions of legislature.— That the Legislature of Alaska shall convene at the capital at the City of Juneau, Alaska, on the first Monday in March in the year nineteen hundred and thirteen, and on the first Monday in March every two years thereafter; but the said legislature shall not continue in session longer than sixty days in any two years unless again convened in extraordinary session by a proclamation of the governor, which shall set forth the object thereof [23] and give at least thirty days' written notice to each member of said

legislature, and in such case shall not continue in session longer than fifteen days. The governor of Alaska is hereby authorized to convene the legislature in extraordinary session for a period not exceeding fifteen days when requested to do so by the President of the United States, or when any public danger or necessity may require it.

Sec. 7. Organization of the legislature.—That when the legislature shall convene under the law, the Senate and House of Representatives shall each organize by the election of one of their number as presiding officer, who shall be designated in the case of the Senate as ‘president of the Senate’ and in the case of the House of Representatives as ‘speaker of the House of Representatives,’ and by the election by each body of the subordinate officers provided for in section eighteen hundred and sixty-one of the United States Revised Statutes of eighteen hundred and seventy-eight, and each of said subordinate officers shall receive the compensation provided in that section: Provided, that no person shall be employed for whom salary, wages, or compensation is not provided in the appropriation made by Congress.

Sec. 8. Enacting clause—Subject of act.—That the enacting clause of all laws passed by the legislature shall be ‘Be it enacted by the Legislature of the Territory of Alaska.’ No law shall embrace more than one subject, which shall be expressed in its title.

Sec. 9. Legislative power—Limitations.—The legislative power of the Territory shall extend to all rightful subjects of legislation but not inconsistent

with the Constitution and laws of the United States, but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents; nor shall the legislature grant to any corporation, association, or individual any special or exclusive privilege, immunity, or franchise without the affirmative approval of Congress; nor shall the legislature pass local or special laws in any of the cases enumerated in the Act of July thirtieth, eighteen hundred and eighty-six; nor shall it grant private charters or special privileges, but it may, by general act, permit persons to associate themselves together as bodies corporate for manufacturing, mining, agricultural, and other industrial pursuits, and for the conduct of business of insurance, savings banks, banks of discount and deposit (but not of issue), loans, trust, and guaranty associations for the establishment and conduct of cemeteries, and for the construction and operation of railroads, wagon roads, vessels, and irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any other benevolent, charitable, or scientific association, but the authority embraced in this section shall only permit the organization of corporations or associations whose chief business shall be in the Territory of Alaska; no divorce shall be granted by the legislature, nor shall any divorce be granted by the courts of the Territory, unless the applicant therefor shall have re-

sided in the Territory [24] for two years next preceding the application, which residence and all causes for divorce shall be determined by the Court upon evidence adduced in open court; nor shall any lottery or the sale of lottery tickets be allowed; nor shall the legislature or any municipality interfere with or attempt in anywise to limit the Acts of Congress to prevent and punish gambling, and all gambling implements shall be seized by the United States marshal or any of his deputies, or any constable or police officer, and destroyed; nor shall spirituous or intoxicating liquors be manufactured or sold, except under such regulations and restrictions as Congress shall provide; nor shall any public money be appropriated by the Territory or any municipal corporation therein for the support or benefit of any sectarian, denominational, or private school, or any school not under the exclusive control of the Government; nor shall the Government of the Territory of Alaska or any political or municipal corporation or subdivision of the Territory make any subscription to the capital stock of any incorporated company, or in any manner lend its credit for the use thereof; nor shall the Territory, or any municipal corporation therein, have power or authority to create or assume any bonded indebtedness whatever; nor to borrow money in the name of the Territory or of any municipal division thereof; nor to pledge the faith of the people of the same for any loan whatever, either directly or indirectly; nor to create, nor to assume, any indebtedness, except for the actual running expenses thereof; and no such indebtedness for actual

running expenses shall be created or assumed in excess of the actual income of the Territory or municipality for that year, including as a part of such income appropriations then made by Congress, and taxes levied and payable and applicable to the payment of such indebtedness and cash and other money credits on hand and applicable and not already pledged for prior indebtedness; Provided, That all authorized indebtedness shall be paid in the order of its creation; all taxes shall be uniform upon the same class of subjects and shall be levied and collected under general laws, and the assessments shall be according to the actual value thereof. No tax shall be levied for Territorial purposes in excess of one per centum upon the assessed valuation of property therein in any one year; nor shall any incorporated town or municipality levy any tax, for any purpose, in excess of two per centum of the assessed valuation of property within the town in any one year; Provided, That the Congress reserves the exclusive power for five years from the date of the approval of this Act to fix and impose any tax or taxes upon railways or railway property in Alaska, and no acts or laws passed by the Legislature of Alaska providing for a county form of government therein shall have any force or effect until it shall be submitted to and approved by the affirmative action of Congress; and all laws passed, or attempted to be passed, by such legislature in said Territory inconsistent with the provisions of this section shall be null and void: Provided further, That nothing herein contained shall be held to abridge the right of the legis-

lature to modify the qualifications of electors by extending the elective franchise to women.

Sec. 10. Rules, quorums, and majority.—That the Senate and House of Representatives shall each choose its own officers, determine the rules of its own proceedings not inconsistent with this Act; and keep a journal of its proceedings; that the ayes [25] and noes of the members of either house on any question shall, at the request of one-fifth of the members present, be entered upon the journal; that a majority of the members to which each house is entitled shall constitute a quorum of such house for the conduct of business, of which quorum a majority vote shall suffice; that a smaller number than a quorum may adjourn from day to day and compel the attendance of absent members, in such manner and under such penalties as each house may provide; that for the purpose of ascertaining whether there is a quorum present the presiding officer shall count and report the actual number of members present.

Sec. 11. Legislator shall not hold other office.—That no member of the legislature shall hold or be appointed to any office which has been created, or the salary or emoluments of which have been increased, while he was a member, during the term for which he was elected and for one year after the expiration of such term; and no person holding a commission or appointment under the United States shall be a member of the legislature or shall hold any office under the government of said Territory.

Sec. 12. Exemptions of legislators.—That no member of the legislature shall be held to answer before any other tribunal for any words uttered in the

exercise of his legislative functions. That the members of the legislature shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance upon the sessions of the respective houses, and in going to and returning from the same; Provided, That such privilege as to going and returning shall not cover a period of more than ten days each way, except in the second division, when it shall extend to twenty days each way, and the fourth division to fifteen days each way.

Sec. 13. Passage of laws.—That a bill in order to become a law shall have three separate readings in each house, the final passage of which in each house shall be by a majority vote of all the members to which such house is entitled, taken by ayes and noes, and entered upon its journal. That every bill, when passed by the house in which it originated or in which amendments thereto shall have originated, shall immediately be enrolled and certified by the presiding officer and the clerk and sent to the other house for consideration.

Sec. 14. The veto power.—That, except as herein provided, all bills passed by the legislature shall, in order to be valid, be signed by the governor. That every bill which shall have passed the legislature shall be certified by the presiding officers and clerks of both houses, and shall thereupon be presented to the governor. If he approves it, he shall sign it and it shall become a law at the expiration of ninety days thereafter, unless sooner given effect by a two-thirds vote of said legislature. If the governor does not approve such bill, he may return it, with his objec-

tions, to the legislature. He may veto any specific item or items in any bill which appropriates money for specific purposes, but shall veto other bills, if at all, only as a whole. That upon the receipt of a veto message from the governor each house of the legislature shall enter the same at large upon its journal and proceed to reconsider [26] such bill, or part of a bill, and again vote upon it by ayes and noes, which shall be entered upon its journal. If, after such reconsideration, such bill or part of a bill shall be approved by a two-thirds vote of all the members to which each house is entitled, it shall thereby become a law. That if the governor neither signs nor vetoes a bill within three days (Sundays excepted) after it is delivered to him, it shall become a law without his signature, unless the legislature adjourns *sine die* prior to the expiration of such three days. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature, by its adjournment, prevents the return of the bill, in which case it shall not be a law.

Sec. 15. Payment of legislative expenses.—That there shall be annually appropriated by Congress a sum sufficient to pay the salaries of members and authorized employees of the Legislature of Alaska, the printing of the laws, and other incidental expenses thereof; the said sums shall be disbursed by the governor of Alaska, under sole instructions from the Secretary of the Treasury, and he shall account quarterly to the Secretary for the manner in which

the said funds shall have been expended; and no expenditure, to be paid out of money appropriated by Congress, shall be made by the governor or by the legislature for objects not authorized by the Acts of Congress making the appropriations, nor beyond the sums thus appropriated for such objects.

Sec. 16. Laws transmitted to President and printed.—That the governor of Alaska shall, within ninety days after the close of each session of the Legislature of the Territory of Alaska, transmit a correct copy of all the laws and resolutions passed by the said legislature, certified to by the secretary of the Territory, with the seal of the Territory attached; one copy to the President of the United States, and one to the Secretary of State of the United States; and the legislature shall make provisions for printing the session laws and resolutions within ninety days after the close of each session and for their distribution to public officials and sale to the people of the Territory.

Sec. 17. Election of Delegates.—That after the year nineteen hundred and twelve the election for Delegate from the Territory of Alaska, provided by 'An Act providing for the election of a Delegate to the House of Representatives from the Territory of Alaska,' approved May seventh, nineteen hundred and six, shall be held on the Tuesday next after the first Monday in November in the year nineteen hundred and fourteen, and every second year thereafter on the said Tuesday next after the first Monday in November, and all of the provisions of the aforesaid Act shall continue to be in full force and effect and

shall apply to the said election in every respect as is now provided for the election to be held in the month of August therein: Provided, That the time for holding an election in said Territory for Delegate in Alaska to the House of Representatives to fill a vacancy, whether such vacancy is caused by failure to elect at the time prescribed by law, or by the death, resignation, or incapacity or a person elected, may be [27] prescribed by an act passed by the Legislature of the Territory of Alaska: Provided, further, That when such election is held it shall be governed in every respect by the laws passed by Congress governing such election.

Sec. 18. Creating railroad commission.—That an officer of the Engineer Corps of the United States Army, a geologist in charge of Alaska surveys, an officer in the Engineer Corps of the United States Navy, and a civil engineer who has had practical experience in railroad construction and has not been connected with any railroad enterprise in said Territory be appointed by the President as a commission hereby authorized and instructed to conduct an examination into the transportation question in the Territory of Alaska; to examine railroad routes from the seaboard to the coal fields and to the interior and navigable waterways; to secure surveys and other information with respect to railroads, including cost of construction and operation; to obtain information in respect to the coal fields and their proximity to railroad routes; and to make report of the facts to Congress on or before the first day of December, nineteen hundred and twelve, or as soon thereafter

as may be practicable, together with their conclusions and recommendations in respect to the best and most available routes for railroads in Alaska which will develop the country and the resources thereof for the use of the people of the United States; Provided further, That the sum of twenty-five thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated to defray the expenses of said commission.

Sec. 19. Laws relating to Alaska (compilation to be made). That the Committee on Territories of the Senate and the Committee on Territories of the House of Representatives are hereby authorized, empowered, and directed to jointly codify, compile, publish, and annotate all the laws of the United States applicable to the Territory of Alaska, and said committees are jointly authorized to employ such assistance as may be necessary for that purpose; and the sum of Five Thousand Dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to cover the expenses of said work, which shall be paid upon vouchers properly signed and approved by the chairman of said committees.

Ses. 20. Laws shall be submitted to Congress.— That all laws passed by the Legislature of the Territory of Alaska shall be submitted to the Congress by the President of the United States, and, if disapproved by Congress, they shall be null and of no effect.”

That subsequent to the passage of the said Organic

Act, and on, to wit, January 5, 1914, it was decided by the United States Circuit Court of Appeals for the Ninth Circuit, in the two actions of Callahan vs. Marshall and Callahan vs. United States, [28] being cases numbered 2305 and 2308, respectively, on the records of said court, that the act of the legislature of the Territory of Alaska purporting to impose a poll tax upon male persons in the Territory of Alaska and providing means for its collection, which said act is known and designated as chapter 54 of the Sessions Laws of Alaska for the year 1913, was invalid for reasons set forth in the opinion of said Court, which said opinion is reported in volume 210 of the Federal Reporter at page 230 et seq., and to which opinion specific reference is hereby made.

That the aforesaid Organic Act, ever since its enactment has been, and now is, in full force and effect, save that by act of Congress, under date of August 29, 1914, and subsequent to the rendition of the aforesaid opinion by the Circuit Court of Appeals, Congress enacted the following law:

“An Act to Amend an Act entitled ‘An Act creating a legislative assembly in the Territory of Alaska and conferring legislative power thereon, and for other purposes,’ approved August twenty-fourth, nineteen hundred and twelve.

(Power of courts to enforce statutes—Legislative power—costs of prosecutions.) That nothing in that Act of Congress entitled ‘An Act creating a legislative assembly in the Territory of Alaska and conferring legislative power thereon, and for other purposes,’ approved August twenty-fourth, nineteen

hundred and twelve, shall be so construed as to prevent the courts now existing or that may be hereafter created in said Territory from enforcing within their respective jurisdictions all laws passed by the legislature within the power conferred upon it, the same as if such laws were passed by Congress, nor to prevent the legislature passing laws imposing additional duties, not inconsistent with the present duties of their respective offices, upon the governor, marshals, deputy marshals, clerks of the district courts, and United States commissioners acting as justices of the peace, judges of probate courts, recorders, and coroners, and providing the necessary expenses of performing such duties, and in the prosecuting of all crimes denounced by Territorial laws the costs shall be paid the same as is now or may hereafter be provided by Act of Congress providing for the prosecution of criminal offenses in said Territory, except that in prosecutions growing out of any revenue law passed by the legislature the costs shall be paid as in civil actions and such prosecutions shall be in the name of the Territory." [29]

V.

That by Act approved April 29, 1915, the Legislature of the Territory of Alaska enacted a law designated as House Bill No. 109, which is as follows, to wit:

"CHAPTER 76.

(House Bill No. 109.)

AN ACT to establish a system of taxation, create revenue, and provide for collection thereof, for the Territory of Alaska, and for other purposes; and to

amend an Act entitled 'An Act to establish a system of taxation, create revenue, and provide for collection thereof for the Territory of Alaska, and for other purposes,' approved May 1, 1913, and declaring an emergency.

Be it Enacted by the Legislature of the Territory of Alaska:

Section 1. That any person, firm or corporation prosecuting or attempting to prosecute any of the following lines of business in the Territory of Alaska shall apply for and obtain a license and pay for said license for the respective lines of business as follows:

1st. Attorneys at Law, Doctors and Dentists: Ten Dollars per annum.

2d. Automobiles: Five dollars per annum.

3d. Bakeries: Fifteen dollars per annum.

4th. Electric Light and Power Plants selling light and power to the public: One-half of 1 per cent of the gross receipts in excess of twenty-five hundred dollars.

5th. Employment Agencies: Operating for hire and collecting a fee from employees, five hundred dollars per annum.

6th. Fisheries: Salmon canneries, four cents per case on King and Reds or Sockeye; two cents per case on Medium Reds; one cent per case on all others.

7th. Salteries: Two and one-half cents per one hundred pounds on all fish salted or mild cured, except herring.

8th. Fish Traps: Fixed or floating, one hundred dollars per annum, So called dummy traps included.

9th. Gill Nets: One dollar per hundred fathoms or fraction thereof.

10th. Cold Storage Fish Plants: Doing a business of one hundred thousand dollars per annum or more, five [30] hundred dollars per annum; doing a business of seventy-five thousand dollars per annum, and less than one hundred thousand dollars, three hundred and seventy-five dollars per annum; doing a business of fifty thousand and less than seventy-five thousand dollars per annum, two hundred and fifty dollars per annum; doing a business of twenty-five thousand and less than fifty thousand dollars per annum, one hundred and twenty-five dollars per annum; doing a business of ten thousand dollars and less than twenty-five thousand dollars per annum, fifty dollars per annum; doing a business of four thousand, and less than ten thousand dollars per annum, twenty-five dollars per annum; doing a business of under four thousand dollars per annum, ten dollars per annum. The 'Annual Business' under this section shall be considered the amount paid per annum for the product.

11th. Laundries: Doing a business of over five thousand dollars per annum, twenty-five dollars per annum.

12th. Meat Markets: Doing a business of not less than ten thousand nor more than twenty-five thousand dollars per annum, ten dollars per annum; doing a business of not less than twenty-five thousand nor more than fifty thousand dollars per annum, thirty dollars; doing a business of not less than fifty thousand nor more than seventy-five thousand

dollars per annum, one hundred dollars per annum; doing a business of not less than seventy-five thousand nor more than two hundred thousand dollars per annum, two hundred and fifty dollars per annum; doing a business of over two hundred thousand dollars per annum, five hundred dollars per annum. That every separate meat market or establishment shall be considered a separate business.

13th. Mining: One per cent of the net income in excess of five thousand dollars. By 'net income' is meant the cash value of the output of the mine less operating expenses, repairs and betterments actually done. By 'mining' is meant any operation by which valuable metals, ores, minerals or marketable stone is extracted from the earth.

14th. Public Scavengers: Fifty (\$50.00) dollars per annum.

15th. Ships and Shipping: Freight and Transportation: Ocean and coast-wise vessels doing business for hire plying in Alaska waters, registered in Alaska and not registered elsewhere in the United States and not paying a tax or license elsewhere, and freight and passenger lines propelled by mechanical power registered in the Territory of Alaska and not paying a license or tax elsewhere in the United States, and river and lake steamers and barges, as well as transportation lines doing business wholly within the Territory of Alaska, one dollar per ton on net tonnage, custom house measurement of such vessel.

16th. Telephone Companies: One-half of one per cent of gross receipts in excess of Fifteen (\$1,500.00) Hundred Dollars. [31]

17th. Water Works: Selling water or power to the public, one-half of one per cent of gross receipts in excess of Twenty-five (\$2500.00) Hundred Dollars.

18th. Public Messengers: Twenty-five (\$25.00) Dollars per annum.

Section 2. Every person, firm or corporation desiring to engage in any of the lines of business specified in Section One, shall first apply to and obtain from the Territorial Treasurer a license. If the tax for the license applied for is a fixed sum, the amount of such license tax shall accompany the application. If the amount of the tax is not a fixed sum, the applicant shall state in his application that he agrees to pay the license tax, and will make a true return and will pay to the Treasurer such tax on or before the 15th day of the next ensuing January. The applicant shall also state the name of the person, firm or corporation making the application, the line of business to be licensed, and the place where said business will be carried on. Upon the receipt of the application in proper form, the Treasurer shall issue the license as of the date of the application, and the applicant may carry on the business from and after the date the application is actually made. All license taxes, except those where the tax is a fixed one, shall be due and payable on December 31st of each year, and must be paid on or before January 15th following. And it shall be the duty of the person, firm or corporation engaged in any of said lines of business, to make a return under oath, to the Treasurer on or before January 15th of

each year, setting forth the name of the license, the number of the license, and all the facts regarding the business, necessary to enable the Treasurer to determine the amount of the tax to be paid. And all application for renewals of such licenses shall be made on or before January 15th of the calendar year for which such renewal is made.

Provided: Any person, firm or corporation now engaged in any of the lines of business specified in Section one shall comply with this Act on or before July 1st, 1915, by applying for the license (and paying the tax if a fixed sum) for the calendar year ending December 31st, 1915, and all taxes for the current year shall be calculated for the year beginning January 1st, and ending December 31st, 1915.

Any person, firm or corporation violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of the amount of the tax with ten per cent added, for which the defendant was liable. Each month or fraction of a month in which business is carried on in violation of this Act shall be deemed a separate offense, and prosecution therefor may be by information filed by the Attorney-General or other authorized legal counsel of the Territory in any Court of competent jurisdiction, and upon conviction the Court shall enter a judgment for the fine and costs incurred, and such judgment may be enforced as judgments in civil actions or by imprisonment at the rate of one day for each two dollars of such fine and costs. [32]

PROVIDED: That in any prosecution hereunder the Attorney-General or other authorized legal

counsel of the Territory may, with the consent of the Governor, compromise the case by accepting from the defendant a sum not less than the tax, legal interest thereon and all costs and expenses.

The Territorial Treasurer is authorized and directed to prescribe suitable forms for applications, licenses, returns and such other forms as may be necessary or proper to carry this law into effect. He shall distribute such forms to the public through the Clerks' of the Court and Marshal's offices in the several Divisions for use of those subject to the taxes herein laid.

Section 3. It shall be the duty of the Attorney-General or other authorized legal counsel of the Territory to enforce the provisions of this Act; and for that purpose may with the approval of the Governor, employ such assistants as he may deem necessary, but the compensation for the services of such assistants shall be paid out of the fund recovered, and the Territory shall not be liable therefor in any event beyond fifteen (15) per cent of the amount so recovered in each case; assistant counsel may, however, be employed at a previously agreed upon and stipulated fixed fee.

Section 4. Special remedies provided by this Act, or other Acts of the Legislature shall not be deemed exclusive, and any appropriate remedy either civil or criminal or both, may be invoked by the Territory in the collection of all taxes, and in civil actions the same penalties may be collected, as are herein provided in criminal actions.

Section 5. All taxes levied, laid or provided for

in this Act and penalties and interest accrued, are hereby declared to be a lien upon the real and personal property of the person, firm or corporation liable therefor, paramount and superior to all mortgages, hypothecations, conveyances and assignments.

Section 6. It shall be the duty of the United States Marshals and Deputy Marshals in the Territory of Alaska to enforce the provisions of this Act in their respective precincts, districts or divisions and to report all violations thereof to the Governor, and under his direction file information, or take such proceedings as he may direct; and for the services so performed they shall be paid under the provisions of Section three hereof. And for all negligence or wilful failure to perform such duties, Marshals and Deputy Marshals shall be liable to the Territory for all losses sustained, which liabilities may be enforced in any appropriate proceeding. And in the enforcement of this Act the Attorney-General or other legal counsel for the Territory and the Marshals and Deputy Marshals have the right to inspect the premises and all books and papers of the persons, firms or corporations claimed to be liable to the taxes herein laid, which right of inspection shall be enforced by the Courts upon application therefor. [33]

Section 7. The Act of which this Act is an amendment is hereby repealed, except in so far as the same is hereby re-enacted, but nothing herein contained shall be construed to relieve any person, firm or corporation from the payment of any tax, penalty and interest accrued and owing under the Act of

which this Act is an amendment, but all such taxes, penalties and interest shall be paid, or collected and enforced in the same manner as taxes herein provided for are collected and enforced.

Section 8. An emergency is hereby declared to exist and this Act shall be in full force and effect from and after its passage and approval."

VI.

That on June 26, 1906, the Congress of the United States duly enacted a law, *and* which is as follows, to wit:

"An Act for the Protection and Regulation of the Fisheries of Alaska.

Be it enacted, etc., That every person, company, or corporation carrying on the business of canning, curing, or preserving fish or manufacturing fish products within the territory known as Alaska, ceded to the United States by Russia by the treaty of March thirtieth, eighteen hundred and sixty-seven, or in any of the waters of Alaska over which the United States has jurisdiction, shall, in lieu of all other license fees and taxes therefor and thereon, pay license taxes on their said business and output as follows: Canned salmon, four cents per case; pickled salmon, ten cents per barrel; salt salmon in bulk, five cents per one hundred pounds; fish oil, ten cents per barrel; fertilizer, twenty cents per ton. The payment and collection of such license taxes shall be under and in accordance with the provisions of the Act of March third, eighteen hundred and ninety-nine, entitled 'An Act to define and punish crimes in the district of Alaska, and to provide a

code of criminal procedure for the district,' and amendments thereto.

Sec. 2. That the catch and pack of salmon made in Alaska by the owners of private salmon hatcheries operated in Alaska shall be exempt from all license fees and taxation of every nature at the rate of ten cases of canned salmon to every one thousand red or king salmon fry liberated, upon the following conditions:

That the Secretary of Commerce and Labor may from time to time, and on the application of the hatchery owner shall, within a reasonable time thereafter, cause such private hatcheries to be inspected for the purpose of determining the character of their operations, efficiency, and productiveness, and if he approve the same shall cause notice of such approval to be filed in the office of the clerk or deputy clerk of the United States district court of the Division of the district of Alaska wherein any such hatchery is located, and shall also notify the owners of such hatchery of the action taken by him. The owner, [34] agent, officer, or superintendent of any hatchery the effectiveness and productiveness of which has been approved as above provided shall, between the thirtieth day of June and the thirty-first day of December of each year, make proof of the number of salmon fry liberated during the twelve months immediately preceding the thirtieth day of June, by a written statement under oath. Such proof shall be filed in the office of the clerk or deputy clerk of the United States district court of the division of the district of Alaska wherein such

hatchery is located, and when so filed shall entitle the respective hatchery owners to the exemption as herein provided; and a false oath as to the number of salmon fry liberated shall be deemed perjury and subject the offender to all the pains and penalties thereof. Duplicates of such statements shall also be filed with the Secretary of Commerce and Labor. It shall be the duty of such clerk or deputy clerk in whose office the approval and proof heretofore provided for are filed to forthwith issue to the hatchery owner, causing such proofs to be filed, certificates which shall not be transferable and of such denominations as said owner may request (no certificate to cover fewer than one thousand fry), covering in the aggregate the number of fry so proved to have been liberated; and such certificates may be used at any time by the person, company, corporation, or association to whom issued for the payment *pro tanto* of any license fees or taxes upon or against or on account of any catch or pack of salmon made by them in Alaska; and it shall be the duty of all public officials charged with the duty of collecting or receiving such license fees or taxes to accept such certificates in lieu of money in payment of all license fees or taxes upon or against the pack of canned salmon at the ratio of one thousand fry for each ten cases of salmon. No hatchery owner shall obtain the rebate from the output of any hatchery to which he might otherwise be entitled under this Act unless the efficiency of said hatchery has first been approved by the Secretary of Commerce and Labor in the manner herein provided for.

Sec. 3. That it shall be unlawful to erect or maintain any dam, barricade, fence, trap, fish wheel, or other fixed or stationary obstruction, except for purposes of fish culture, in any of the waters of Alaska at any point where the distance from shore to shore is less than five hundred feet, or within five hundred yards of the mouth of any red-salmon stream where the same is less than five hundred feet in width, with the purpose or result of capturing salmon or preventing or impeding their ascent to their spawning grounds, and the Secretary of Commerce and Labor is hereby authorized and directed to have any and all such unlawful obstructions removed or destroyed.

Sec. 4. That it shall be unlawful to lay or set any drift net, seine, set net, pound net, trap, or any other fishing appliance, for any purpose except for purposes of fish culture, across or above the tide waters of any creek, stream, river, estuary, or lagoon, for a distance greater than one-third the width of such creek, stream, river, estuary, or lagoon, or within one hundred yards outside of the mouth of any red-salmon stream where the same is less than five hundred feet in width. It shall be unlawful to lay or set any seine or net of any kind within one hundred yards of any other seine, net, or other fishing [35] appliance which is being or which has been laid or set in any of the waters of Alaska, or to drive or construct any trap or any other fixed fishing appliance within six hundred yards laterally or within one hundred yards endwise of any other trap or fixed fishing appliance.

Sec. 5. That it shall be unlawful to fish for, take, or kill any salmon of any species in any manner or by any means except by rod, spear, or gaff, in any of the waters of Alaska over which the United States has jurisdiction, except Cook Inlet, the Delta of Copper River, Bering Sea, and the waters tributary thereto, from six o'clock post meridian of Saturday of each week until six o'clock antemeridian of the Monday following, or to fish for, or catch, or kill in any manner or by any appliances except by rod, spear, or gaff, any salmon in any stream of less than one hundred yards in width in Alaska between the hours of six o'clock in the evening and six o'clock in the morning of the following day of each and every day of the week. Throughout the weekly close season herein prescribed the gate, mouth or tunnel of all stationary and floating traps shall be closed, and twenty-five feet of the webbing or net of the 'heart' of such traps on each side next to the 'pot' shall be lifted or lowered in such manner as to permit the free passage of salmon and other fishes.

Sec. 6. That the Secretary of Commerce and Labor may, in his discretion, set aside any stream or lakes as preserves for spawning grounds, in which fishing may be limited or entirely prohibited; and when, in his judgment, the results of fishing operations in any stream, or off the mouth thereof, indicate that the number of salmon taken is larger than the natural production of salmon in such stream, he is authorized to establish close seasons or to limit or prohibit fishing entirely for one year or more within such stream or within five hundred yards of

the mouth thereof, so as to permit salmon to increase: Provided, however, That such power shall be exercised only after all persons interested shall be given a hearing, of which due notice must be given by publication; and where the interested parties are known to the Department they shall be personally notified by a notice mailed not less than thirty days previous to such hearing. No order made under this section shall be effective before the next calendar year after same is made: And provided further, That such limitations and prohibitions shall not apply to those engaged in catching salmon who keep such streams fully stocked with salmon by artificial propagation.

Sec. 7. That it shall be unlawful to can or salt for sale for food any salmon more than forty-eight hours after it has been killed.

Sec. 8. That it shall be unlawful for any person, company, or corporation wantonly to waste or destroy salmon or other food fishes taken or caught in any of the waters of Alaska.

Sec. 9. That it shall be unlawful for any person, company or corporation canning, salting, or curing fish of any species in Alaska to use any label, brand, or trade-mark which shall tend to misrepresent the contents of any package of fish offered [36] for sale: Provided, That the use of the terms 'red,' 'medium red,' 'pink,' 'chum,' and so forth, as applied to the various species of Pacific salmon under present trade usages shall not be deemed in conflict with the provisions of this Act when used to designate salmon of those known species.

Sec. 10. That every person, company, and corporation engaged in catching, curing, or in any manner utilizing fishery products, or in operating fish hatcheries in Alaska, shall make detailed annual reports thereof to the Secretary of Commerce and Labor, on blanks furnished by him, covering all such facts as may be required with respect thereto for the information of the Department. Such reports shall be sworn to by the superintendent, manager or other person having knowledge of the facts, a separate blank form being used for each establishment in cases where more than one cannery, saltery, or other establishment is conducted by a person, company, or corporation, and the same shall be forwarded to the Department at the close of the fishing season and not later than December fifteenth of each year.

Sec. 11. That the catching or killing, except with rod, spear, or gaff, of any fish of any kind or species whatsoever in any of the waters of Alaska over which the United States has jurisdiction, shall be subject to the provisions of this Act, and the Secretary of Commerce and Labor is hereby authorized to make and establish such rules and regulations not inconsistent with law as may be necessary to carry into effect the provisions of this Act.

Sec. 12. That to enforce the provisions of this Act and such regulations as he may establish in pursuance thereof, the Secretary of Commerce and Labor is authorized and directed to depute, in addition to the agent and assistant agent of salmon fisheries now provided by law, from the officers and employees of the Department of Commerce and

Labor, a force adequate to the performance of all work required for the proper investigation, inspection, and regulation of the Alaskan fisheries and hatcheries, and he shall annually submit to Congress estimates to cover the cost of the establishment and maintenance of fish hatcheries in Alaska, the salaries and actual traveling expenses of such officials, and for such other expenditures as may be necessary to carry out the provisions of this Act.

Sec. 13. That any person, company, corporation or association violating any provision of this Act or any regulation established in pursuance thereof shall, upon conviction thereof, be punished by a fine not exceeding one thousand dollars or imprisonment at hard labor for a term of not more than ninety days, or by both such fine and imprisonment, at the discretion of the court; and in case of the violation of any of the provisions of section four of this Act and conviction thereof a further fine of not more than two hundred and fifty dollars per diem may, at the discretion of the court, be imposed for each day such obstruction is maintained. And every vessel or other apparatus or equipment used or employed in violation of any provision of this Act, or of any regulation made thereunder, may be seized by order of the Secretary of Commerce and Labor, and shall be held subject to the payment of such fine or fines as may be imposed.

Sec. 14. That the violation of any provision of this Act may be prosecuted in any district court of Alaska or any district [37] court of the United States in the States of California, Oregon, or Washington,

And it shall be the duty of the Secretary of Commerce and Labor to enforce the provisions of this Act and the rules and regulations made thereunder. And it shall be the duty of the district attorney to whom any violation is reported by any agent or representative of the Department of Commerce and Labor to institute proceedings necessary to carry out the provisions of this Act.

Sec. 15. That all Acts or parts of Acts inconsistent with the provisions of this Act are, so far as inconsistent, hereby repealed.

Sec. 16. That this Act shall take effect and be in force from and after its passage."

VII.

That the provisions of the Act of Congress of March 3, 1899, as the same was amended on June 6, 1900, entitled, "An Act to define and punish crimes in the District of Alaska and to provide a code of criminal procedure for the District," referred to in paragraph one of the said Act of June 26, 1906, are as follows, to wit:

"That any person or persons, corporation or company prosecuting or attempting to prosecute any of the following lines of business within the District of Alaska shall first apply for and obtain license so to do from a district court or a subdivision thereof in said District, and pay for said license for the respective lines of business and trade as follows, to wit:

'Abstract offices, fifty dollars per annum.

'Banks, two hundred and fifty dollars per annum.

'Boarding houses having accommodations for ten

or more guests, fifteen dollars per annum.

‘Brokers (money, bill, note and stock), one hundred dollars per annum.

‘Billiard rooms, fifteen dollars per table per annum.

‘Bowling alleys, fifteen dollars per annum.

‘Breweries, five hundred dollars per annum.

‘Bottling works, two hundred dollars per annum.

‘Cigar manufacturers, twenty-five dollars per annum.

‘Cigar stores or stands, fifteen dollars per annum.

‘Drug stores, fifty dollars per annum.

‘Public docks, wharves, and warehouses, ten cents per ton on freight handled or stored.

‘Electric-light plants, furnishing light and power for sale, three hundred dollars per annum.

‘Fisheries: Salmon canneries, four cents per case; salmon salteries, ten cents per barrel; fish-oil works, [38] ten cents per barrel; fertilizer works, twenty cents per ton.

‘Freight and passenger transportation lines, propelled by mechanical power registered in the District of Alaska, or not paying license or tax elsewhere, and river and lake steamers, as well as transportation lines doing business wholly within the District of Alaska, one dollar per ton per annum on net tonnage, custom-house measurement, of each vessel.

‘Gas plants, for heat or light, for sale, three hundred dollars per annum.

‘Hotels, fifty dollars per annum.

‘Insurance agents and brokers, twenty-five dollars per annum.

‘Halls, public, ten dollars per annum.

‘Jewelers, twenty-five dollars per annum.

‘Mines: Quartz mills, three dollars per stamp per year.

‘Mercantile establishments: Doing a business of one hundred thousand dollars per annum, five hundred dollars per annum; doing a business of seventy-five thousand dollars per annum, three hundred and seventy-five dollars per annum; doing a business of fifty thousand dollars per annum, two hundred and fifty dollars per annum; doing a business of twenty-five thousand dollars per annum, one hundred and twenty-five dollars per annum; doing a business of ten thousand dollars per annum, fifty dollars per annum; doing a business of under ten thousand dollars per annum, twenty-five dollars per annum; doing a business of under four thousand dollars per annum, ten dollars per annum.

‘Meat markets, fifteen dollars per annum.

‘Manufactories not enumerated herein, same classification and license charges as mercantile establishments.

‘Physicians, itinerant, fifty dollars per annum.

‘Plaining mills, fifty dollars per annum when not part of a sawmill.

‘Pawnbrokers, three hundred dollars per annum.

‘Peddlers, twenty-five dollars per annum.

‘Patent-medicine venders (not regular druggists), fifty dollars per annum.

‘Railroads, one hundred dollars per mile per annum on each mile operated.

‘Restaurants, fifteen dollars per annum.

‘Real estate dealers and brokers, fifty dollars per annum.

‘Ships and shipping: Ocean and coastwise vessels doing local business for hire plying in Alaskan waters, registered in Alaska or not paying license or tax elsewhere, one dollar per ton per annum on net tonnage, custom-house measurement, of each vessel.

‘Sawmills, ten cents per thousand feet on the lumber sawed.

‘Steam ferries, one hundred dollars per year.

‘Toll road or trail, two hundred dollars per annum.

‘Tobacconists, fifteen dollars per annum.

‘Tramways, ten dollars for each mile or fraction thereof per annum.

‘Transfer companies, fifty dollars per annum.

‘Taxidermists, ten dollars per annum. [39]

‘Theaters, one hundred dollars per annum.

‘Waterworks, furnishing water for sale, fifty dollars per annum.’ ”

VIII.

That the defendant has, ever since the enactment of said act of Congress dated June 26, 1906, annually made application for and been granted licenses to operate a salmon cannery as therein stated, and has paid the license taxes on its said business and output as therein provided; that it has complied with all the provisions of chapter 3 of title 7 of the Compiled Laws of Alaska, relating to fish and fisheries, and that the license fees and taxes so paid by defendant have been accepted by the United States under the provisions of said act.

IX.

That the defendant has declined to apply for or

obtain a license from the Territory of Alaska, or to pay for said license for its said business of conducting a salmon cannery in accordance with the provisions of said House Bill No. 109, and that by reason of such refusal the Territory of Alaska has deemed the defendant guilty of a misdemeanor. That a controversy has therefore arisen between the parties hereto as to the validity of the provisions of the said House Bill No. 109, so far as the same requires this defendant to apply for and obtain licenses to operate its said salmon cannery and gill-nets and to pay license fees thereon, the defendant contending that it is not required by law to apply for said licenses, or any of them, or to pay the said license charges, or any of them, so as aforesaid provided by House Bill No. 109, and the Chief Counsel representing the Territory of Alaska contending that the defendant [40] is required by law to so apply for said licenses, and to pay said charges and all of them.

X.

It is stipulated and agreed by the parties hereto, that in the event that the Court shall determine that the said license fees and charges provided by said House Bill 109 be valid, then that a judgment may be entered against the defendant in the following amounts, to wit:

For salmon packed in the year 1915, \$1,158.28; for gill-nets used in the year 1915, \$131.75, together with interest thereon at the rate of 8% per annum from January 15, 1916.

And for a further, separate and distinct statement of facts, hereby submitted, it is agreed:

I.

That by an act approved May 1, 1913, the legislature of the Territory of Alaska enacted a law designated as House Bill No. 96, which is as follows, to wit:

“AN ACT to establish a system of taxation, Create Revenue, and Provide for Collection Thereof for the Territory of Alaska, and for other Purposes.

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. That any person or persons, corporation, or company prosecuting or attempting to prosecute any of the following lines of business within the Territory of Alaska, shall first apply for and obtain license so to do from the district court or subdivision thereof in said Territory, and pay for said license for the respective lines of business and trades, as follows, to wit:

Fisheries: Salmon canneries, seven cents per case on sock eye and king salmon; one-half cent a case on hump-back, coho, or chum salmon.

Cold Storage Fish Plants: Doing a business of one hundred thousand dollars per annum, five hundred dollars per annum; doing a business of seventy-five thousand dollars per [41] annum, three hundred and seventy-five dollars per annum; doing a business of fifty thousand dollars per annum, two hundred and fifty dollars per annum; doing a business of twenty-five thousand dollars per annum, one hundred and twenty-five dollars per annum; doing a business of ten thousand dollars per annum, fifty dollars per annum; doing a business of under ten

thousand dollars per annum twenty-five dollars per annum; doing a business of under four thousand dollars per annum, ten dollars per annum. The annual business of this section shall be considered the amount paid per annum for the product.

Laundries doing a business of more than five thousand dollars per annum, twenty-five dollars.

Meat Markets: Doing a business of more than five thousand dollars per annum and less than ten thousand dollars per annum, twenty-five dollars per annum; doing a business of more than ten thousand dollars per annum, fifty dollars per annum; doing a business of more than fifty thousand dollars per annum, seventy-five dollars per annum; doing a business of more than seventy-five thousand dollars per annum, three hundred and seventy-five dollars per annum; doing a business of more than one hundred thousand dollars per annum, five hundred dollars per annum.

Furs: One-half of one per cent of the gross value of any furs, the product of Alaska, exported from the Territory and it shall be unlawful and punishable under this act for any person to ship from the Territory of Alaska any furs without having first paid for and obtained a license permit as herein provided; and no custom officer shall issue a manifest for nor postmaster receipt for mailing any furs unless the shipper thereof shall present a certificate for this license fee signed by the clerk of the district court of the division in which the furs were shipped.

Telephone Companies: Doing a business of more than twenty-four hundred dollars per annum, one-

half of one per cent of the gross volume of business per annum over and above the sum of twenty-four hundred dollars.

Transient and Itinerant Merchants, two hundred dollars per annum.

Mining: One-half of one per cent on net income over and above five thousand dollars per annum.

Insurance Companies: A tax shall be imposed on all premiums payable on risks in the Territory of Alaska of one per cent of the amount of such premiums.

1. In the case of such insurance premiums being paid to companies not licensed to do business in the Territory of Alaska, mutual's or Lloyd's, such tax shall be payable by the insured;

2. In case of premiums paid to companies licensed and doing business in the Territory of Alaska; such tax shall be payable by the company receiving the same.

Express Companies: Express Companies to pay one per cent of the business done by said express companies in the Territory of Alaska per annum.

Lighterage Companies: Ten cents per ton on freight handled or lightered.

Public Messengers, twenty-five dollars per annum.

Public Scavenger, fifty dollars per annum.

Lodging Houses, ten dollars per annum.

Reindeer owned by white men, twenty-five cents per head per annum. [42]

Fishing Vessels: Fishing vessels propelled by mechanical power of over thirty tons net and plying or fishing in the waters of Alaska, one dollar per ton

per annum on net tonnage, custom-house measurement, of each vessel.

Transportation: On every ton of freight shipped into or from the Territory of Alaska by any transportation company or steamship line, per annum, payable through the custom house at time of entry to be paid into the Territorial Treasury, ten cents per ton, except return shipments of casks, tanks, kegs, carboys or other receptacles used in the shipment of liquids.

Sec. 2. That the licenses provided for in this act shall be issued by the clerk of the district court or any subdivision thereof in compliance with the order of the court or judge thereof duly made and entered; and the clerk of the court shall keep a full record of all applications for license and of all recommendations for and remonstrances against the granting of licenses and the action of the court thereon: Provided, That the clerk of said court in each division thereof shall give bond or bonds in such amount as the Treasurer of the Territory may require and in such form as the governor may approve, the premium on said bond to be paid from any funds in the Treasury of the Territory of Alaska not otherwise appropriated, and all moneys received for licenses by any clerk of a district court in this Territory under this act, except the moneys derived from fisheries, (one-half of which amount shall be paid by the clerk into the Territorial Treasury to be made available for the propagation and preservation of salmon and other fish in the Territory of Alaska and to be expended under the direction of the United

States Bureau of Fisheries) shall, except as otherwise provided by law, be covered into the Treasury of the Territory of Alaska, under such rules and regulations as the Territorial Treasurer may prescribe.

Sec. 3. That any person, corporation or company doing or attempting to do business in violation of the provisions of this act, or without first having paid the license therein required, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined, for the first offense, in a sum equal to the license required for the business, trade or occupation; and for the second offense, fine equal to double amount of the license required; and for the third offense, three times the license required and imprisonment for not less than thirty days nor more than six months; Provided, That each day business is done or attempted to be done in violation of this act shall constitute a separate and distinct offense; Provided further, That in all prosecutions under this act the costs shall be assessed against any person, firm or corporation convicted of violations hereof, in addition to the fine or penalty imposed, and for failure to pay such fine and costs such person, firm or corporation may be imprisoned, in the discretion of the court, at the rate of one day for every two dollars of said fine and costs; Provided further, however, that in the event of any person, firm, or corporation shall fail to pay the license required by the provisions of this act and shall further fail to pay any fine that may be imposed by a court of competent jurisdiction, for such failure to so pay

said license fee or tax required by the provisions of this act, judgment may be entered against such firm, person or corporation and process shall be [43] issued for the enforcement of the collection of said judgment and in the same manner as judgments in civil proceedings.

Sec. 4. All United States marshals and their deputies as ex-officio constables, United States fish commissioners and their deputies, in the Territory of Alaska are hereby made license inspectors under this act and shall have power and authority to go upon premises and examine the books, papers, bills of lading, and all other documents bearing upon any matters provided for in this act, of any person, firm, or corporation whom they have reasonable grounds to believe is evading this act; and if any United States marshal, or his deputy, United States fish commissioner or his deputy, as ex-officio constables shall find any person, firm, or corporation violating this act, or any provision thereof, it shall be the duty of said deputy marshal to go before a United States commissioner, file a complaint in writing charging the person, firm or corporation so violating this act with a misdemeanor, as provided herein, and upon obtaining a warrant upon said complaint to arrest the said person, firm, or corporation and take him or them before the United States commissioner issuing the warrant for trial."

II.

That defendant, during the year 1913, and subsequent to July 31st of that year, packed at its said cannery in Alaska, the followinig cases of salmon, to wit:

Of Sockeye and King Salmon.....29,955 Cases
Of Humpback, Cohoe or Chum Salmon.. 5,267 Cases

That for the year 1914, defendant packed at its said cannery the following cases of salmon, to wit:

Of Sockeye and King Salmon.....35,761 Cases
Of Humpback, Cohoe or Chum Salmon.. 3,430 Cases

III.

That the defendant had, for the years 1913 and 1914, made application for and obtained from the Secretary of Commerce and Labor, licenses to transact its said business, and paid all license fees and charges required by the act of Congress dated June 26th, 1906, hereinbefore set forth, both upon the business of the defendant and its output. That the defendant has declined to apply for the licenses, or any of them, required by the said House Bill No. 96, enacted by the legislature of the Territory of Alaska, and has declined to pay the license fees therein provided, and the same have not been paid in whole or in part. [44]

IV.

It is further stipulated that if the Court shall determine that the defendant is legally liable for the license fees and taxes provided by the said House Bill No. 96, that judgment may be entered against the defendant herein for the following sum, to wit: Four Thousand, Six Hundred Forty-three and 60/100 (4,643.60) Dollars in addition to the amounts named on page 22 hereof, as license fees and taxes for the year 1915.

V.

It is further agreed that all of the foregoing acts of Congress and the legislative acts of the legislature of the Territory of Alaska and the decisions of the United States Circuit Court of Appeals, may be considered in connection with the facts set forth in this additional statement of facts, with the same force and effect as if the same were fully set forth at large herein.

VI.

It is further agreed that by the act of Congress dated June 26th, 1906, entitled "An act for the protection and regulation of the fisheries of Alaska," hereinbefore set forth, it is among other things provided that the catch and pack of salmon made in Alaska by the owners of private salmon hatcheries operated in Alaska shall be exempt from all license fees and taxation of every nature, at the rate of ten cases of canned salmon to every one thousand Red or King salmon fry liberated. That certain companies engaged in the business of canning salmon in the Territory of Alaska have for many years last past continuously maintained and operated private salmon hatcheries in Alaska, and that they have made application to the Secretary of Commerce and Labor that such private hatcheries be inspected, and [45] that the Secretary of Commerce and Labor has approved of such hatcheries and has caused notice of such approval to be filed in the office of the clerk of the United States District Court of the Division of the District of Alaska wherein such hatcheries are located, and

that all the steps have been taken and done by the owners of such private hatcheries to enable them to claim the exemption from license fees and taxation provided in section 2 of the said act of June 26th, 1906. That a controversy has arisen between the district of Alaska and the owners of said private salmon hatcheries as to the extent to which the liberation of salmon fry from said hatcheries, and the certificates issued therefor, shall be used for the purpose of discharging all license fees and taxes imposed upon the output of the canneries operated by the owners of said hatcheries, it being contended by the owners of such hatcheries that by the application of a certificate for each one thousand of salmon fry liberated they are released from all further obligation to pay any license fees or taxes imposed either by the Congress of the United States or by the legislature of Alaska upon ten cases of salmon put up by said canner, and it being contended on the other hand, by the chief counsel for the district of Alaska, that the said certificates for salmon fry so liberated do not operate to release the owners of said private salmon hatcheries from any obligation to pay the license fees and taxes so as aforesaid imposed by the acts of 1913 and 1915 of the legislature of Alaska. [46]

VII.

It is stipulated by the parties hereto that this statement and any part thereof may be amended from time to time, either at or before the final argument before the Court, so as to set out fully all the facts necessary to enable the Court to determine

the matters in controversy.

VIII.

It is further stipulated that the questions to be decided by the Court, and which are covered by this agreed statement of facts, are as follows, to wit:

1. Whether or not defendant, having complied with all the conditions and paid the license fees imposed by the said acts of Congress, is obliged to apply for a license and pay the license fees and taxes imposed by the said act of the legislature of Alaska designed as House Bill No. 96, approved May 1, 1913.

2. Whether or not defendant, having complied with all the conditions and paid the license fees imposed by the said acts of Congress, is obliged to apply for a license and pay the license fees and taxes imposed by the act of the legislature of Alaska known as House Bill No. 109, approved April 29, 1915.

3. Whether or not the owners of private salmon hatcheries, who are also engaged in the business of canning salmon in Alaska, are, by virtue of certificates issued to them by the Secretary of Commerce and Labor for salmon fry liberated from their said hatcheries, entitled, by virtue of such certificates, to have the same applied *pro tanto* in payment of all license fees and charges, not only imposed by the said acts of Congress but also by said acts of the legislature of Alaska.

IX.

It is further stipulated and agreed by the parties hereto [47] that this controversy is real, and

that these proceedings are taken in good faith to determine the rights of the respective parties hereto, and that upon a judgment being given herein by the said District Court of Alaska, an appeal or writ of error will lie in behalf of the party against whom said judgment is given with like force and effect as if said judgment had been given in an action pending between said parties.

WHEREFORE, the parties hereto do hereby submit the foregoing to the Court for its decision, without action, in accordance with the provisions of chapter 28 of the Code of Civil Procedure of the District Alaska.

THE TERRITORY OF ALASKA.

By J. H. COBB,
Its Chief Counsel.

ALASKA SALMON COMPANY.

By GEO. H. COLLINS, [Corporate Seal.]
Its President.

Z. R. CHENEY,
BOGLE, GRAVES, MERRITT & BOGLE,
KERR, McCORD,
CHICKERING & GREGORY,

Attorneys for Defendant. [48]

United States of America,
Territory of Alaska,—ss.

[**Affidavit of Governor Strong of Alaska.**]

J. F. A. STRONG, being first duly sworn on oath deposes and says: I am Governor of the Territory of Alaska. The controversy set forth in the foregoing and hereto attached statement is real, and the said

proceeding is taken in good faith to determine the rights of the parties.

J. F. A. STRONG.

Subscribed and sworn to before me this the 9th day of December, 1915.

[Notarial Seal]

E. L. COBB,

Notary Public in and for Alaska.

My commission expires Dec. 3, 1918. [49]

[Affidavit of Geo. H. Collins.]

State of California,

City and County of San Francisco,—ss.

GEORGE H. COLLINS,

C. E. N. P. being first duly sworn, deposes and says:

That he is an officer, to wit, the president, of Alaska Salmon Company, the defendant herein, and he makes this verification in behalf of said defendant. That he has read the foregoing agreed statement of facts and stipulation, and that the same is true of his own knowledge; that the controversy set forth in the agreed statement of facts is real, and that this proceeding is taken in good faith to determine the rights of the parties; that he, as president of said Alaska Salmon Company, is by the laws of the State of California authorized as a person upon whom service of summons may be made in any judicial proceeding against said Alaska Salmon Company.

GEO. H. COLLINS.

Subscribed and sworn to before me this 22d day of November, 1915.

[Notarial Seal] CHARLES EDELMAN,
Notary Public in and for the City and County of
San Francisco, State of California.

My commission expires April 7th, 1918. [50]

The cause was argued orally by the respective counsel; at the conclusion of the arguments, counsel for the defendant submitted in writing and requested the Court to adopt the following conclusions of law, viz.:

[Conclusions of Law Requested by Defendant.]

Conclusion No. One.

That sections six and nine of the act of April 29, 1915, under which this suit is prosecuted, are void and invalid for the reasons:

(A) That the sections of said act above mentioned alter, modify and repeal the act of June 26, 1906, which said act of June 26, 1906, is set forth in paragraph VI of the agreed statement of facts;

(B) Because under the act of August 24, 1912, which said act is set forth in paragraph IV of the agreed statement of facts, the legislative assembly in the Territory of Alaska is prohibited from passing any laws relating to fish or fisheries in the Territory of Alaska;

(C) Because no assessment whatsoever was made upon the property of defendant, taxed under the act of April 29, 1915, prior to the levying of the tax.

The Court thereupon refused to adopt such conclusion, to which refusal defendant excepted, and exception was allowed.

Conclusion No. Two.

The defendant company is not liable for any license taxes for the years 1913–1914, for the reasons that the act of May 1, 1913, designated as House Bill No. 96, did not provide for any civil liability.

The Court thereupon refused to adopt such conclusion, to which refusal defendant excepted, and exception was allowed. [51]

Conclusion No. Three.

That the defendant, Alaska Salmon Company, having complied with all the conditions and paid the license fees imposed by the said acts of Congress, is not required to apply for a license and pay the license fees and taxes imposed by the act of the legislature of Alaska, approved May 1, 1913.

The Court thereupon refused to adopt such conclusion, to which refusal defendant excepted, and exception was allowed.

Conclusion No. Four.

That the defendant, Alaska Salmon Company, having complied with all the conditions and paid the license fees imposed by the said acts of Congress, is not required to apply for a license and pay the license fees and taxes imposed by the act of the Alaska legislature, approved April 29, 1915.

The Court thereupon refused to adopt such conclusion, to which refusal defendant excepted, and exception was allowed.

Conclusion No. Five.

That the owners of private salmon hatcheries in Alaska, who are also engaged in the business of canning salmon in Alaska, are by virtue of certificates

issued to them by the Secretary of Commerce and Labor for salmon fry liberated from their said hatcheries, entitled, by virtue of such certificates, to have the same applied *pro tanto*, in payment of all license fees and charges, not only imposed by the said acts of Congress, but also by said acts of the legislature of Alaska.

The Court thereupon refused to adopt such conclusion, to which refusal defendant excepted, and exception was allowed.

Conclusion No. Six.

Upon the agreed statement of facts, the Court doth find that the plaintiff is not entitled to any relief in this action, and that [52] defendant is entitled to its costs and disbursements herein expended.

The Court thereupon refused to adopt such conclusion, to which refusal defendant excepted, and exception was allowed.

[Conclusions of Law.]

The Court thereupon adopted and signed the following conclusions of law, viz.:

Conclusion No. One.

That compliance with all the conditions and the payment of the license fees imposed by the acts of Congress set forth in the agreed statement, does not relieve the defendant from the payment of the license taxes imposed by the act of the Alaska legislature approved May 1st, 1913, but that the defendant was obliged to apply for a license and pay the license fees and taxes so imposed.

To which conclusion defendant excepted, and exception was allowed.

Conclusion No. Two.

That the defendant having complied with all the conditions and paid the license fees imposed by the acts of Congress in said agreed statement set forth, is obliged to apply for a license and pay the license fees and taxes imposed by the act of the legislature of Alaska known as House Bill No. 109 approved April 29th, 1915..

To which conclusion defendant excepted, and exception was allowed.

[Order Settling and Allowing Bill of Exceptions, etc.]

JUDGE'S CERTIFICATE.

And now because the above and foregoing matters do not appear of record herein, I, Robert W. Jennings, Judge of the District Court for Alaska, Division Number One, before whom said cause was tried, [53] do hereby certify that the above and foregoing bill of exceptions contains the agreed statement of facts upon which the cause was tried, the conclusions of law requested by the defendant and refused by the Court, and the conclusions of law adopted by the Court; that the bill is correct in all respects, and is hereby approved, allowed and settled, and made a part of the record herein.

Dated this 23d day of December, A. D. 1915, during the term at which the judgment herein was rendered and entered.

ROBERT W. JENNINGS,
Judge.

O.K.—COBB.

Filed in the District Court, District of Alaska,
First Division, Dec. 23, 1915. J. W. Bell, Clerk.
By L. E. Spray, Deputy. [54]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1407-A.

THE TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA SALMON COMPANY,

Defendant,

Citation on Appeal.

United States of America,—ss.

The President of the United States to the Territory
of Alaska, Plaintiff, and to J. H. Cobb, Its
Chief Counsel, Greeting:

You are hereby cited and admonished to be and
appear in the United States Circuit Court of Appeals
for the Ninth Circuit, to be held in the City of San
Francisco, State of California, within thirty days
from the date of this writ, pursuant to an order al-
lowing an appeal filed and of record in the office of
the clerk of the United States District Court in and
for the Territory of Alaska, Division Number One,
in a cause wherein Alaska Salmon Company is ap-
pellant, and the Territory of Alaska is appellee, to
show cause, if any there be, why the judgment and
decree rendered against the appellant, Alaska
Salmon Company, in said cause, should not be cor-
rected and speedy justice should not be done to the

parties in that behalf.

WITNESS the Honorable EDWARD DOUGLASS WHITE, Chief Justice of the Supreme Court of the United States of America, this 23d day of December, 1915, and of the independence of the United States the one hundred and thirty-ninth.

ROBERT W. JENNINGS,
Judge.

Copy received and service accepted this 23d day of December, 1915.

J. H. COBB,
Chief Counsel for the Territory of Alaska.

Filed in the District Court, District of Alaska, First Division. Dec. 23, 1915. J. W. Bell, Clerk.
By _____, Deputy. [55]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1407-A.

THE TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA SALMON COMPANY,

Defendant,

Praecipe [for Transcript of Record].

To the Clerk of the above-entitled Court:

You will prepare a transcript of the record in this cause, to be filed in the office of the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, under the writ of error heretofore perfected to said Court, and include in said tran-

script the following pleadings, proceedings and papers on file, to wit:

1. Conclusions of Law Requested by Defendant.
2. Conclusions of Law and Judgment.
3. Assignment of Errors.
4. Petition for Appeal.
5. Order Allowing Appeal and Fixing Amount of Bond.
6. Petition for Writ of Error.
7. Order Allowing Writ of Error.
8. Writ of Error.
9. Citation on Writ of Error.
10. Stipulation to File Bond in Appellate Court.
11. Defendant's Bill of Exceptions.
12. Citation on Appeal.
13. Praeceptum. [56]

Said transcript to be prepared as required by law, and the rules of this court, and the rules of the United States Circuit Court of Appeals for the Ninth Circuit.

Z. R. CHENEY,

Attorney for Alaska Salmon Company, Defendant and Appellant.

Filed in the District Court, District of Alaska, First Division. Dec. 23, 1915. J. W. Bell, Clerk.
By _____, Deputy. [57]

[Certificate of Clerk U. S. District Court to
Transcript of Record.]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1407-A.

THE TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA SALMON COMPANY,

Defendant.

United States of America,
Territory of Alaska,—ss.

I, J. W. Bell, Clerk of the District Court for the Territory of Alaska, Division Number One, hereby certify that the foregoing and hereto annexed 57 pages of typewritten matter, numbered from one to 57, inclusive, constitutes a full, true and correct copy of the record, and the whole thereof, as per the praecipe, of the plaintiff in error, on file herein and made a part hereof, in the cause wherein the Alaska Salmon Company is plaintiff in error, and the Territory of Alaska is defendant in error, No. 1407-A, as the same appears of record and on file in my office, and that the said record is, by virtue of the writ of error and citation issued in this cause, and the return thereof, in accordance therewith.

I do further certify that this transcript was prepared by me in my office, and the cost of preparation, examination, and certificate, amounting to Forty-two and 10/100 Dollars (\$42.10), has been paid to me by counsel for plaintiff in error.

IN WITNESS WHEREOF I have hereunto set my hand and the seal of the above-entitled court this 23d day of December, 1915.

[Seal] J. W. BELL,
Clerk of the District Court for the Territory of
Alaska.

By _____,
Deputy.

[Endorsed]: No. 2720. United States Circuit Court of Appeals for the Ninth Circuit. Alaska Salmon Company, a Corporation, Plaintiff in Error and Appellant, vs. The Territory of Alaska, Defendant in Error and Appellee. Transcript of Record. Upon Writ of Error to and upon Appeal from the United States District Court of the District of Alaska, Division No. 1.

Filed December 29, 1915.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Meredith Sawyer,
Deputy Clerk.

